

REMARKS

In the outstanding Official Action, the Examiner asserted that the present application contains claims directed to two patently distinct species of the claimed invention. In particular, the Examiner identified Group I, as illustrated in Figures 1-11, as drawn to a label comprising a noncontact IC tag for storing product code. The Examiner additionally identified Group II, (which is not illustrated in any figures of the present application), as drawn to a label comprising a barcode to store product code.

The Examiner required Applicant to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is held to be allowable. The Examiner further indicated that no claim appeared to be generic.

As noted above, by the present response, Applicant has elected species I as illustrated in all of Figures 1-11 and to which previously pending claims 1-9, 18 to 22, 26 and 27 were directed.

As noted above, by the present response, Applicant has canceled all of the previously pending claims 1-29 and have submitted new claims 30-41 which are directed to a product information acquisition apparatus. Applying the above noted election of species requirement to the presently pending claims, Applicant respectfully submits that claims 30, 31, 36, and 37 are all generic to the asserted species of the presently disclosed invention. Applicants additionally submit that claims 32, 33, 38 and 39 are directed to the elected species.

Applicant additionally notes that the species identified by the Examiner as Group I, which included claims 19-22, were directed to a product information acquisition apparatus and accordingly, the submission of the new claims directed to such an apparatus, by the present response, is fully consistent with the above noted election of species.

As noted above, Applicant respectfully traverses the propriety of the above noted election of species requirement. In particular, Applicant respectfully submits that the Examiner has not set forth the existence of a serious burden if the above noted election of species requirement were not required. Further, Applicant respectfully submits that there would be no significant burden on the Examiner in examining all of the claims in the present application if the outstanding election of species requirement were not required.

In particular, it is respectfully submitted that both of the species identified by the Examiner are related to labels that store product code and thus any search for the claims defined by one of the species would almost inevitably involve a significant amount of overlap with any search for the claims defined by the other species. At least for this reason it is respectfully submitted that the election of species requirement is inappropriate and should thus be withdrawn.

Applicant notes that the cancellation of the previously pending claims is not made in the view of any prior art but is made in order to ensure that the presently pending claims "substantially correspond" to the allowed claims of the corresponding Japanese application, as is required for entry into the patent prosecution highway (PPH) program.

SUMMARY AND CONCLUSION

By the present response, Applicant has elected, with traverse, one of the species identified by the Examiner and has additionally submitted new set of claims for consideration and examination in the present application.

In view of the herein-contained traverse, Applicant respectfully requests reconsideration of the outstanding election of species requirement together with an action on the merits of all of claims 30-41 pending herein. Such action is now believed to be appropriate and proper and is thus respectfully requested.

The submission of the new claims in the present application is made solely in order to comply with the requirements for entry into the patent prosecution highway (PPH) program. Accordingly, no prosecution history estoppel should apply to the present application.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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